

Law Offices of Stephen Abraham
Stephen E. Abraham, Esq. (State Bar No. 172054)
stephen@abraham-lawoffices.com
1592 Pegasus Street
Newport Beach, California 92660
Telephone: (949) 878-8608
Facsimile: (714) 852-3366

Attorney for Defendants Danny B. Luong; Diana Wong

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Scott Johnson,

Plaintiff,

V.

Danny B. Luong, in individual and representative capacity as trustee of The Luong/Wong Family Revocable Trust Of August 21, 1999; **Diana Wong**, in individual and representative capacity as trustee of The Luong/Wong Family Revocable Trust Of August 21, 1999; and Does 1-10,

Defendants.

Case No. 4:20-cv-00121-YGR

**DEFENDANTS' NOTICE OF
MOTION AND MOTION TO (A)
DISMISS FEDERAL CLAIM
PURSUANT TO FRCP 12(b)(1);
AND (B) TO DISMISS STATE
CLAIMS PURSUANT TO FRCP
12(b)(1), 12(h)(3), and 28 USC
§1367(c)**

Honorable Yvonne Gonzalez Rogers
Oakland Courthouse
Courtroom 1 – 4th Floor
1301 Clay Street
Oakland, CA 94612

Date: Tuesday, March 31, 2020
Time: 2:00 p.m.

To Plaintiff and his attorneys of record:

Please take notice that on Tuesday, March 30, 2020 at 10:30 a.m. or as soon thereafter as the matter may be heard in the courtroom of the Honorable Yvonne Gonzalez Rogers, located at the Oakland Courthouse, Courtroom 1 – 4th Floor, 1301 Clay Street, Oakland, CA 94612, Defendants Danny B. Luong and Diana Wong (“**Defendants**”) will and hereby do move this Court for an order dismissing Plaintiff’s federal claim pursuant to Federal Rule of Civil Procedure (“**FRCP**”)

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— LAW OFFICES —
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1 12(b)(1) on the grounds that the Court lacks subject matter jurisdiction; and dis-
2 missing Plaintiff's state claim pursuant to FRCP 12(b)(1), 12(h)(3), and 28 USC
3 §1367(c) on the grounds that there are no grounds for the maintenance of federal
4 jurisdiction over Plaintiff's state claims.¹

5 Defendants' motion is brought pursuant to Rules 12(b), 12(h)(3) of the Fed-
6 eral Rules of Civil Procedure and 28 USC §1367(c), and is supported by this No-
7 tice of and Motion, the Memorandum of Points and Authorities, the declarations
8 and evidence concurrently filed, and such other evidence as may be admitted at the
9 time of the hearing of the motion.

10 This motion is made following repeated attempts by Defendant's coun-
11 sel to meet and confer, including offering pictures and excerpts of a CASp re-
12 port reflecting conditions of the property as further discussed in the Declara-
13 tion of Stephen Abraham.

Dated: February 10, 2020 LAW OFFICES OF STEPHEN ABRAHAM

By: /s/ Stephen E. Abraham
Stephen E. Abraham
Attorneys for Defendants

¹ To be clear, if this Court finds that a basis for federal subject matter jurisdiction was absent at the time of the commencement of the action, then there is no basis for retaining jurisdiction over the state claims.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is: 1592 Pegasus Street, Newport Beach, California 92660.

On February 10, 2020, I served the foregoing document described as:
DEFENDANTS' NOTICE OF MOTION AND MOTION TO (A) DISMISS FEDERAL CLAIM PURSUANT TO FRCP 12(b)(1); AND (B) TO DISMISS STATE CLAIMS PURSUANT TO FRCP 12(b)(1), 12(h)(3), and 28 USC §1367(c) thereon on all interested parties in this action as follows:

CENTER FOR DISABILITY ACCESS Representing Plaintiff
Amanda Seabock, Esq., SBN 289900
Chris Carson, Esq., SBN 280048
Dennis Price, Esq., SBN 279082
Mail: 8033 Linda Vista Road, Suite 200
San Diego, CA 92111
(858) 375-7385; (888) 422-5191 fax
amandas@potterhandy.com

e-Filing pursuant to Court order

Executed on February 10, 2020, at Newport Beach, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

/s/ Stephen E. Abraham

Stephen E. Abraham